

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY

EDWARD A. JORDAN,

Plaintiff,

v.

CIVIL ACTION NO. 5:04-0496

H. L. KIRKPATRICK,

Defendant.

MEMORANDUM OPINION AND JUDGMENT ORDER

By Standing Order entered on May 20, 2002, and filed in this case on May 20, 2004, this matter was referred to United States Magistrate Judge R. Clarke VanDervort. Pursuant to 28 U.S.C. § 636(b)(1)(B), the Standing Order directs Magistrate Judge VanDervort to submit proposed findings and recommendation concerning the disposition of this matter. Magistrate Judge VanDervort submitted his Proposed Findings and Recommendation on March 14, 2006, and proposed that this court (1) confirm and accept the magistrate judge's findings, (2) dismiss plaintiff's complaint (Doc. No. 1) for failure to state a claim, and (3) direct the Clerk to remove this matter from the court's docket.

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge VanDervort's Proposed Findings and Recommendation. The failure of any party to file objections within the appropriate time frame constitutes a waiver of such party's right to a de novo review by this court. Snyder

v. Ridenour, 889 F.2d 1363 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140 (1985). No objections were filed in this case.

Having reviewed the Findings and Recommendation filed by Magistrate Judge VanDervort, the court (1) **CONFIRMS** and **ACCEPTS** the magistrate judge's findings; (2) **DISMISSES** plaintiff's complaint (Doc. No. 1) with prejudice; and (3) **DIRECTS** the Clerk to remove this action from the active docket of this court. The Clerk is further directed to forward a certified copy of this Memorandum Opinion and Judgment Order to all counsel of record and the plaintiff, pro se.

IT IS **SO ORDERED** this 3rd day of April, 2006.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber
Chief Judge